THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.17510 of 1998

DATED: 28.02.2007

BETWEEN:

Ankarapu Venkaiah and others.

…Petitioners

and

Government of A.P., rep. by its
Prl. Secretary, Irrigation Department,
Secretariat, Hyderabad and
others

....Respondents

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.17510 of 1998

ORDER:

This writ petition is filed seeking *mandamus* declaring that the petitioners are also entitled to compensation on par with the claimants in O.P.No.740 of 1983, as modified in A.S.No.2680 of 1988, under Section 28(A) of the Land Acquisition Act, 1894 (for short, 'the Act'), and also to declare that the action of respondents in not passing orders on the representation of petitioners, as illegal and arbitrary.

2. Facts, in brief, are:- Certain lands belonging to the petitioners herein as well as the claimants in O.P.No.740 of 1983, on the file of the Court of the II Additional District Judge, Karimnagar, situated at Pothugal village of Karimnagar District were acquired by the Government for the purpose of Lower Munniar Dam. The Land Acquisition Officer after due enquiry passed an award bearing No.2/78-79, dated 16-08-1978, fixing an amount of Rs.4,000/- per acre for double crop wet lands, Rs.2,720/- per acre for single crop wet lands and Rs.1,320/- for dry lands as compensation. The petitioners have received the amount of compensation awarded to them, but when the claimants in O.P.No.740 of 1983 refused to receive the compensation, the Land Acquisition Officer referred the matter to Civil Court under Section 18 of the Act. After completion of trial, learned II Additional District Judge enhanced the compensation vide order, dated 22-12-1987 and when the matter carried to appeal before this Court in

A.S.No.2680 of 1988, this Court in its judgment, dated 04-02-1991 while modifying the order of the learned Additional District Judge granted solatium and interest. According to the petitioners, as they are similarly situate with that of the claimants in O.P.No.740 of 1983, they filed representations to the respondents to enhance compensation on par with the claimants in O.P.No.740 of 1985, but the third respondent, without considering their request, vide orders bearing No.D/392/88, dated 22-03-1996, rejected their claim. Thereupon, the petitioners approached this Court by way of W.P.No.8784 of 1996, wherein this Court, by order, dated 25-04-1996, while setting aside the order, dated 22-03-1996, remitted the matter to the fourth respondent for fresh consideration after verifying the time taken for obtaining the award and also directed to find out whether the applications were made in time and pass orders within two months. Since the matter is getting delayed, the petitioners again approached this Court by way of present writ petition.

3. Heard learned counsel for the petitioners and learned Assistant Government Pleader for Panchayat Raj.

4. On instructions, learned Assistant Government Pleader submits that petitioners filed application on 18.04.1988 and the same is within time. When it is accepted that the said application seeking additional benefits provided under Section 28-A of the Act is within time, there is no other option except to provide benefits under the provisions of Section 28-A of the Act. Even otherwise, evidently, the award of the Land Acquisition Officer was passed on 16.08.1978 and on a reference under Section 18 of the Act, the learned II-Additional District Judge, Karimnagar, enhanced the said compensation by order dated 22.12.1987, which was modified by this Court in AS.No.2680 of 1988

vide judgment dated 04.02.1991. Having regard to the said facts, it can definitely be said that the application dated 18.04.1988 is within time.

5. Accordingly, this Court is of the view that the petitioners are entitled for redetermination of the amount of compensation on the basis of the order dated 22.12.1987, passed in O.P.No.740 of 1985 and as modified in AS.No.2680 of 1988 vide judgment dated 04.02.1991.

6. In the result, this Writ Petition is allowed and the respondents are hereby directed to redetermine the amount of compensation granted to the petitioners herein on par with the claimants in O.P.No.740 of 1985 and in terms of the order dated 22.12.1987 passed in O.P.No.740 of 1985, as modified in the judgment dated 04.02.1991 passed in AS.No.2680 of 1988.

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(GOPALA KRISHNA TAMADA,J)

28.02.2007
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